

Public Hearing: HB 3031
Work Session: HB 2826
SB 14A
Tapes 50-51 A/B

HOUSE COMMITTEE ON
HOUSE REVENUE AND SCHOOL FINANCE
PROPERTY TAX SUBCOMMITTEE
MARCH 16, 1993 10:00 AM TEARING ROOM A STATE CAPITOL
BUILDING

Members Present: Representative Tom Brian, Chair
Representative Mike Burton
Representative Margaret Carter
Representative Fred Girod
Representative Delna Jones
Representative Jim Whitty
Witnesses Present: Senator Jim Bunn,
District 15
John DiLorenzo, Counsel, Willamette Egg Farms Greg Engrav, Tax Counsel,
Willamette Egg Farms Dan Cunningham, General Manager, Willamette Egg Farms
George Lamont, Oregon Department of Agriculture
Don Schellenberg, Oregon Farm Bureau
Tom Linhares, County Assessor, Columbia County, Oregon Association of
County Assessors
Gil Riddell, Association of Oregon Counties
Staff: James Scherzinger, Legislative Revenue Officer
Steve Meyer, Legislative Revenue Office
Paula McBride, Committee Assistant

TAPE 50 SIDE A

006 VICE CHAIR WHITTY called the meeting to order at 10:06.
012 VICE CHAIR WHITTY opened the Public Hearing on HB 3031.
016 SENATOR JIM BUNN introduced amendments HB 3031-1, which extend the
provisions of HB 3031 to identical concerns that may come for broiler
producers, hog producers, and dairy producers. While he supported HB 3031,
he did not have to come back each session with the real versus personal
property issues for other industries. Exhibit 1
Questions and Discussion

These minutes paraphrase and/or summarize statements made during this
meeting. Text enclosed in quotation marks reports the speaker's exact
words. For complete context of proceedings, please refer to the tape
recording.

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033 SENATOR JIM BUNN explained lines 4 through 9 on HB 3031-1 is the gist
of what he is proposing in the amendments, making it clear that farm
machinery (Section 1, subsection 2, A-D of HB 3031) that is currently
exempt would not be disqualified because it is bolted to the floor, wired,
etc. He stipulated that the rest of the language in the amendments was
added by Legislative Counsel, who felt it should have been in the original
bill. He believed that HB 3031 did not create new exemptions but merely
retained exemptions already in place.

Discussion

067 CHAIR BRIAN closed the Public Hearing on HB 3031 and opened a Work
Session on SB 14A.

075 JIM SCHERZINGER discussed new material on the urban renewal issues

contained in SB 14A. The first set of questions centered on the scope of the election and the information that would be given voters, and the second set related to time limits on urban renewal plans. He explained the issues to the members. He related that a district can have incremental financing without having "bonded indebtedness." Exhibit 2

Questions and discussion

131 JIM SCHERZINGER explained what was necessary to levy outside Measure 5, relating to a Supreme Court decision. Exhibit 2

Questions and discussion

170 JIM SCHERZINGER introduced amendments SB 14-A10, suggested by Legislative Counsel. Exhibit 3

180 Discussion of ramifications of proposed changes to SB 14A.

199 CHAIR BRIAN closed the Work Session SB 14A and opened the Work Session on HB 2826

214 MOTION REP. WHITTY moved HB 2826 to the full Committee with a do-pass recommendation.

NO DISCUSSION

218 ORDER There being no objection, CHAIR BRIAN so ordered.

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219 CHAIR BRIAN closed the Work Session on HB 2826 and reopened the Public Hearing on HB 3031.

229 JOHN DILORENZO introduced two other members of his group. He testified in support of HB 3031, and gave a history of the background of the issue, and he discussed the specific characteristics of Willamette Egg Farms. His testimony was verbatim. Exhibit 4

Questions and discussion

395 JOHN DILORENZO spoke about the amendments HB 3031-1, submitted by SENATOR J. BUNN (above, Exhibit 1). He believed that line 4 of the amendments would include more than Egg farm operations in HB 3031, and that Section 2 appears to impose a kind of statute of limitations on how long someone can take to apply for a refund if they had been paying property taxes since 1987. He didn't have a position about Section 1, and he thought Section 2 "at first glance appears reasonable."

Questions and discussion

TAPE 51 SIDE A

002 Questions and discussion continued with JOHN DILORENZO and GREG ENGRAV.

046 DAN CUNNINGHAM discussed egg packing at Willamette Egg Farm, which he distinguished from the process at other food produce facilities. Egg packing does not change the nature of the produce in any way.

Questions and discussion continued with DAN CUNNINGHAM about Willamette Egg Farm equipment use and maintenance.

114 DAN CUNNINGHAM addressed the question of what equipment has changed on the Egg Farms from the time the exemption was first granted until the present. While the tasks have remained the same, the equipment does the process much faster.

144 GEORGE LAMONT testified in support of HB 3031. He discussed the real versus personal property issue as it was raised in California in the last

years. He talked about competitiveness in the agricultural area, and about the income that would be generated and the jobs created during the next years in this field.

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Questions and discussion

203 DON SCHELLENBERG supported HB 3031 and the amendments HB 30311, which he believed dealt with a clarification issue regarding farm machinery and equipment. He believed farm machinery and equipment is anything that can be moved, whether or not it is bolted down at some particular point in its usage. He supported Section 1 of HB 3031-1 and was neutral about Section 2, and he would support HB 3031 either with or without these amendments.

Questions and discussion

372 CHAIR BRIAN believed that whether or not machinery or equipment was mobile was an archaic test, and the issue of what farm equipment is centers more on what the specific equipment is used for. The less apparent issue relates to machinery or equipment that does processing and packaging, which becomes the interesting policy issue.

TAPE 50 SIDE B

002 Discussion continued with DON SCHELLENBERG concerning the definition of "machinery" and "equipment" in farm usage.

034 TOM LINHARES believed that the Oregon Revised Statutes (ORS) 307.400 already granted exemption for personal property used in farming activities, an exemption not granted to other industries. He mentioned that several court cases had occurred that attempted to prove complex machinery and equipment was personal property, but the courts have ruled that this equipment is real property. His organization had developed criteria that might be helpful in judging whether or not the exemption should be granted on farm machinery or equipment, which he explained. If all three of their criteria are met, then exemptions should be granted. He believed that the farm machinery and equipment mentioned in HB 3031 did not meet this criteria, which is why he did not support the bill.

Questions and discussion concerning the criteria TOM LINHARES organization developed.

088 TOM LINHARES explained two additional implications of HB 3031. The first is that the exemption would be retroactive back to 1987. He reiterated that the Tax Court has refused to recognize the validity of the exemption, but under HB 3031 six years of taxes would be forgiven. The money to fund these exemptions would come

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directly from taxing districts with no opportunity to recoup the shortfall. The second impact has to do with the ramifications on other agricultural industries that would want their machinery or equipment exempted as personal property, and he believed the amendments HB 3031-1 illustrated how other industries could be added to HB 3031.

Questions and discussion

125 TOM LINHARES discussed the Willamette Egg Farm example as how assessors decide whether or not machinery/equipment is real or personal property. He cited decisions by the Oregon Tax Court, and definitions in the ORS as to what is real or personal property. With the Egg industry, he thought the equipment was real because of weight, because of wiring inter-connectedness, and it is not, in a narrow definition, moveable. He believed the shift of viewing machinery or equipment as real property instead of personal property occurred before Measure 5

Questions and discussion

166 TOM LINHARES could not explain why personal property was not taxed while real property was taxed to finance local districts.

Questions and discussion

191 TOM LINHARES said property tax law begins with the premise that all property is taxable, and then exemptions of various types are developed. He was responding to questions about whether the property tax system was rational and/or based on reasonable policy.

Questions and discussion

228 GIL RIDDELL reiterated how property taxes shifted from one property to another under Measure 5. He reminded members that the 1991 Legislature, through HB 2550, had provided significant benefits to the agricultural community. He mentioned a letter from Richard Stradley, Sherman County Assessor and an attachment which provides the statistics he cited that HB 303 1 would result in an immediate tax loss to local taxpayers of over \$125,000 to his county alone. He emphasized that property tax is the principal source of revenue to local governments, and that Measure 5 limited the tax rates in the Oregon Constitution. Exhibits 4 and 5

254 JIM MANARY believed that in terms of the proposed exemption in HB 3031, the Oregon Tax Court had created two tests. The first

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drew a distinction between production and processing equipment. The second test related to whether or not the equipment, if it qualifies as farm machinery or equipment, was personal or real property; that is, if it was used in connection with the real property. An example he gave was the machinery or equipment that is bolted to the floor which then connects it with the real property. He will provide the Subcommittee with opinions from the Attorney General's Office concerning this issue.

Questions and discussion

370 JIM MANARY mentioned a survey given to the members, entitled "HB 3031:

Value and Tax Impact. The survey only represents counties that currently have egg ranch property on their assessment rolls, done in February 1993. Exhibit 7

411 JIM MANARY explained a matrix given to the members which compares various types of farm machinery and equipment, specifically what is exempt and what is taxable. Exhibit 8

TAPE 51 SIDE

B

002 JIM MANARY continued his explanation of the matrix. Exhibit 8
Questions and
discussion

019 CHAIR BRIAN closed the Public Hearing on HB 3031.

025 CHAIR BRIAN adjourned the meeting at 11:28.

Paula K.McBride, Committee Assistant

Kimberly Taylor, Office Manager

EXHIBIT SUMMARY

1. HB 3031-1, Senator Jim Bunn, District 15.
2. Urban Renewal Limits, Jim Scherzinger, Legislative Revenue

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EXHIBIT SUNMARY (continued)

Office.

3. SB 14-A10, Jim Scherzinger, Legislative Revenue Office.
4. Testimony of John DiLorenzo, Counsel, Willamette Egg Farms.
5. Letter to members on HB 3031, from Richard Stradley, Sherman County Assessor, presented by Gil Riddell Association of Oregon Counties.
6. Potential Liability of HB 3031, from Richard Stradley, presented by Gil Riddell, Association of Oregon Counties.
7. HB 3031: Value and Tax Impact, Jim Manary, Department of Revenue.
8. Question 2 Matric -- Tax Status of Farm Machinery & Equipment and Processing Equipment, Jim Manary, Department of Revenue.

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